

MT LEGISLATIVE HISTORY

Chapter 104 1969

Bill H (S) 96

Original bill & hist. C

H. Committee on Public Health, Safety & Welfare S. Committee on Public Health, Safety & Welfare

Hearing Date(s) Feb 13 ☒ C

Hearing Date(s) Jan 23 ☒ C

Feb 18 ☒ C

Feb 03 ☒ C

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Date Out Feb 18 ☒ C

Feb 03 ☒ C

Did this bill originate in an interim committee? Yes No

Committee

Report

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MINUTES

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE STATE SENATE

January 23, 1969

A meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn in Room 410 on adjournment, January 22, 1969. Roll call was taken; Senators Shugrue and Hibbard were absent.

SENATE BILL 95 was considered by the committee. Senator David James, District No. 19, Joplin, appeared on behalf of this bill. Senator James explained that under the present law a physician cannot examine or treat a minor for a pregnancy or venereal disease without the knowledge and consent of the parent or guardian. As a result, there is a lot of difficulty with younger people with venereal disease to report for early diagnosis and treatment which is essential if the disease is to be controlled. A law, such as is proposed in SB 95, freeing the physician from having to obtain the parental consent for treatment of minors who have or suspect they have a pregnancy or venereal disease, could make this information confidential the same as for adults.

Others appearing as proponents of SB 95 were:

Dr. John Anderson, State Department of Health;
Mel Lindburg, Coordinator of Medicare and
Licensing Program of the State Department
of Health; and
Chad Smith, Attorney for Montana Hospital Assn.

SENATE BILL 96 was considered by the committee. Senator James explained that, under the Social Security Act, in-hospital medical staff committees have been appointed in order to treat patients under the Medicare Plan. These committees act as a "spot-check" of other members of a hospital staff with patients receiving medicare aid. They are to see that no doctor on the staff is taking advantage of anyone including the Social Security program. It is increasingly difficult to get doctors to serve on these committees because they hesitate to give an adverse report about another doctor.

Senator James submitted proposed amendments to the bill which would insert the words "long-term care facilities" after the word "hospital".

Dr. John Anderson, State Department of Health, stated that the Montana Medical Association has endorsed both Senate Bill 95 and 96.

Mel Lindburg, Coordinator of Medicare and Licensing Program in State Department of Health, explained that this committee was not an action committee -- its function is to evaluate the quality of care that the patient is receiving in the hospital and the length of time kept in the hospital. If the committee determines that the patient, in their judgment, has reached maximum hospital benefits, they recommend through their committee report that hospital benefits be terminated. The physician or parent must be notified. The physician makes the final decision. The physician's judgment will not be overruled in most cases. The review committee is usually appointed by the chief of medical staff in accordance with rules, regulations and by-laws of each facility.

Others appearing as proponents of SB 96 were:

Chad Smith, Attorney for Montana Hospital Assn.; and
Cordell Johnson, Attorney for Montana Medical Assn.

SENATE BILL 60: Senator Dzivi, first author of the bill, stated that this bill was designed to prohibit the sale of any fireworks to the general public, limiting their use to public displays only. Senator Dzivi explained that in 1968, 63 fires in the state of Montana were caused by fireworks.

Curt Hesler, a fireworks dealer in Missoula, appeared as an opponent to SB 60, stating that Montana has safe and sane fireworks now and that if fireworks were prohibited in Montana kids would be likely to obtain kits and supplies to make their own fireworks which could be much more dangerous.

Also appearing as opponents to SB 60 were:

Bert Wood, Owner of a drive-in restaurant and gift shop at St. Regis (retailer of fireworks);
Charles Hemgren, Missoula (retailer);
John Peterson, Nine-Mile Valley, Missoula (driver salesman not dealing with fireworks);
John Evans, Livingston, R & S Marketing Service, (distributor);
Mr. Reed, R & S Marketing Service, Bozeman (owner of manufacturing and wholesale fireworks business); and
Dick Reichenbach, Billings (retailer)

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Chairman Flynn excused all of the witnesses.

After due consideration of Senate Bill 60, Senator Stephens motioned that SB 60 do not pass. The motion was seconded by Senator Cochrane and carried.

Senator Reber motioned that SB 95 do pass. The motion was seconded by Cotton and carried.

Senate Bill 96 was referred to a sub-committee: Dzivi, Chairman; Bennett; Bollinger.


Senator Elmer Flynn Chairman

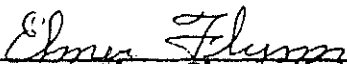
Chairman Flynn excused the witnesses.

Upon suggestion of Senator Dzivi, Chairman Flynn assigned SB 285 to a subcommittee -- Dzivi, Bennett and Shugrue. The subcommittee will also meet with the Finance and Claims Committee.

Senator Dzivi made a motion that Senate Bill 96 do pass.
Senator Reber seconded the motion and it carried.

Senator Dzivi made a motion that Senate Bill 140 do not pass.
Senator Cochrane seconded the motion and it carried.

The meeting was adjourned.



Senator Elmer Flynn, Chairman

STANDING COMMITTEE REPORT

DO NOT PASS

BE CONCURRED IN

BE NOT CONCURRED IN

☐ BE ADOPTED

☐ BE NOT ADOPTED

Feb

January 23

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MR. PRESIDENT:

We, your committee on Public Health, Welfare and Safety

having had under consideration Senate Bill No. 96

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS IN THE INTEREST OF PUBLIC HEALTH THAT IN-HOSPITAL MEDICAL STAFF COMMITTEES HAVE ACCESS TO INFORMATION RELATING TO TREATMENT OF PATIENTS TO EVALUATE THE CARE AND TREATMENT FOR RESEARCH PURPOSES AND TO REDUCE MORBIDITY OR MORTALITY AND TO OBTAIN STATISTICS; PROVIDING THAT EMPLOYEES OF HOSPITALS MAY FURNISH SUCH INFORMATION TO THE IN-HOSPITAL MEDICAL STAFF COMMITTEES; AND THAT SUCH INFORMATION SHALL BE CONFIDENTIAL AND PRIVILEGED, AND THAT ALL PROCEEDINGS OF SUCH COMMITTEES SHALL BE CONFIDENTIAL AND PRIVILEGED; THAT IN-HOSPITAL STAFF COMMITTEES SHALL PUBLISH INFORMATION ONLY FOR PURPOSES OF EVALUATING MEDICAL CARE AND TREATMENT OR FOR STATISTICAL PURPOSES; THAT COMMITTEES NOR ANY OF MEMBERS OF COMMITTEES SHALL NOT DISCLOSE THE IDENTITY OF ANY PATIENTS WHOSE RECORDS HAVE BEEN STUDIED IN ANY REPORT OR PUBLICATION OF FINDINGS OR CONCLUSIONS OF COMMITTEES, AND THAT THE COMMITTEES AND THEIR EMPLOYEES SHALL PROTECT THE IDENTITY OF PATIENTS WHOSE CONDITIONS ARE STUDIED BY THE COMMITTEES; THAT ALL DATA SHALL BE CONFIDENTIAL AND NOT ADMISSIBLE INTO EVIDENCE IN ANY JUDICIAL PROCEEDING, BUT THAT THE ACT SHALL NOT AFFECT THE ADMISSIBILITY IN EVIDENCE OF RECORDS DEALING WITH A PATIENT'S HOSPITAL CARE AND TREATMENT, DEFINING DATA FOR THE PURPOSES OF THIS ACT; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That Senate Bill No. 96

DO PASS

Senate Committee Report form

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Elmer Flynn
Chairman

February 13, 1969

will still go back home and spread this around. As far as pregnancy, he feels this is something that will affect the parents as well as the child. The parents' decision should be binding. He suggested that routine inspections in schools at certain periods throughout the school term for VD would be a better way of controlling the disease rather than just waiting for them to come in.

Discussion followed.

PROPONENT:

Mrs. Jean E. Buker, representing her children, told the committee that she would make a statement since one of the gentlemen on the committee asked what is going on up in Liberty County. She said some people in her parish were quite concerned about the bill and she, as President of Medical Auxiliary, reminded them they should support this legislation. The editor of their local paper had written a very fine editorial in which he said it was unfortunate that most parents in this day have lost the confidence of their children. She said she would feel terrible if a law prevented her children from going to a doctor to seek treatment. Page 4, Section 4, specifically rules out any possibility of a sterilization procedure after pregnancy. A reputable physician always tries to get the girl to confide in her parents and seek their comfort and support and they are able to get them to confide in parents on pregnancy if the doctor acts as a go-between but on VD cases, they will not confide in their parents. In VD cases, she doesn't believe that the other person of a marriage partnership should know unless there has been a possibility the disease could have been transferred.

SENATE BILL #96 -- SPONSOR: Senator James said the reason for this is the Medicare Program, under Social Security Act, which requires hospitals to set up what they call a utilities committee composed of generally three staff members of a hospital and their purpose is to examine the records of other staff members of the hospital and to criticize, either adversely or favorably, the action of their fellow doctors and send a copy of that to Medicare. The purpose is to keep hospitals on the straight and narrow path so that Medicare will not be abused. Most hospitals rotate these physicians. It is becoming harder and harder to get doctors to serve on it because the minutes are not too confidential. Sometimes attorneys will subpoena the records and very often these cases crop up later in law suits against a doctor innocently serving on this committee attempting to upgrade the staff and comply with the provisions of Medicare. This bill would make those records confidential and not subject to subpoena. Doctors make their comments very cursory, very brief and hesitate to say anything against their fellow doctor and that defeats the entire purpose of the committee. There is no other way to get out of this situation without giving those records a confidential rating.

PROPONENTS:

Russ Hegland, representing Montana Medical Association, said this bill also was drafted by the Legal Counsel of Montana Medical Association and had been referred to several committees and is fully approved and supported. The ultimate objective is to improve patient care in the hospital, it does not affect individual patients' records, only the staff committee records.

Dr. Anderson, representing State Board of Health, said the Board of Health is the agency that certifies to the Social Security Administration whether or not hospitals and other facilities meet the requirements of the Federal Government. They work with these committees and would like to see them function properly. They have one committee in the State Health Department of Maternal and Child Welfare and one of their assignments is to look at maternal and infant deaths. They collect all this information and then they publish it. It is not required. These physicians are serving on behalf of the State Board to improve infant and maternal care. There is no other substitute to do what they try to do than through this means.

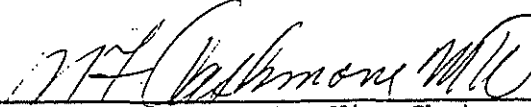
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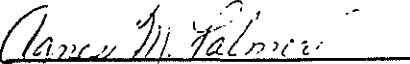
Bill Leary, representing Montana Hospital Association, said one question came up in Senate which he wished to clarify. He said they were talking about keeping out of courts only the minutes of the in-hospital review committees; Section 3 points this out quite clearly. In professional liability cases against hospitals and doctors the records will still be subject to subpoena.

Discussion followed. Witnesses were excused.

Vice Chairman Cashmore told the committee that, although they still had a quorum, he would like to defer any action until the two bills just heard could be explained more fully. Action on Senate Bill #9 was deferred until a later date.

Mr. Campbell moved the meeting be adjourned. Seconded. Motion carried.


Wm. F. Cashmore, M.D., Vice Chairman


Agnes M. Palmer, Secretary

February 18, 1969

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS

The committee on Public Health, Welfare and Safety met in Room 428A, on Tuesday, February 18, 1969, at 8:00 AM. Chairman Asbjornson presided. All members were present except Mr. Shively.

SENATE BILL #134 -- SPONSOR: Senator Turnage said he had with him the State Fire Marshall to help explain the need for this bill. Places penalty on violation of rule and they propose the State Fire Marshall to promulgate. The injunction procedure is too lengthy to take care of off-loading of tankers fueling from transport trucks. If there is a violation, very often in that regard, it is impossible to do anything about it; by the time a complaint is drawn, the truck is over on the other side of the State.

PROPOSER:

William Penttila, State Fire Marshall, said Senator Turnage drafted the bill after he had talked to him about the problem. Injunctions work rather well in construction, etc., but just doesn't work too well in the cases of off-loading fuel and quite a few operators realize this too. Some operators wait until they almost get an injunction and then they correct it. There are quite a few violations in the area of filling portable tanks, storage tanks in trailer courts, etc., operations that take only 10 or 15 minutes. This bill makes it a misdemeanor to leave the operation and will do some good. He said they do not want this penalty just to be arresting people but to use it as a threat to get good conformance with safe practices.

Discussion followed. Witnesses were excused.

SENATE BILL #75 -- SPONSOR: Senator Gordon McGowan, District 17, Chouteau and Judith Basin Counties, said this bill has been long needed in statutes of Montana in changing procedure for commitment to Warm Springs. He said he could not locate Dr. Bennett to appear. Everyone is aware that medical science is developing drugs every day and this is serving a useful purpose for people who have troubles and, under proper circumstances, they will respond well without having them committed under the procedure we have now. It will be like admission to a general hospital in most respects. The staff of the Hospital, Board of Institutions and Judge Stewart all have voiced approval of this legislation. The procedure remains the same for anyone who is violent. Here we are dealing with only one phase of it and people can return to society without being embarrassed and having to be committed by someone else.

Discussion followed. Witness was excused.

Mr. Zimmer moved the committee concur in Senate Bill 134. Mr. Feda seconded. Mr. Cranston suggested the committee lay it on the table for a day to check out notification. Cranston withdrew his motion. Original motion carried.

Dr. Cashmore made a motion that Senate Bill 75 BE CONCURRED IN. Discussion. Motion was seconded. Motion carried.

Dr. Cashmore moved that Senate Bill 95 BE CONCURRED IN and made a brief explanation to the committee. Motion seconded. Motion carried.

Dr. Cashmore briefly explained Senate Bill 96. Mr. Healy moved that Senate Bill 96 BE CONCURRED IN. Dr. Cashmore seconded. Motion carried.

Mr. Cranston called attention of the committee to the word "inflicted" in Senate Bill 95 in the title should be "afflicted" and moved that the committee reconsider their action on Senate Bill 95 and place it back for discussion. Motion was seconded. Motion carried. Mr. Cranston moved that Senate Bill 95 be amended by changing word "inflicted" 5th

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STANDING COMMITTEE REPORT

February 18 19 69

MR. SPEAKER

We, your committee on Public Health, Welfare and Safety

having had under consideration Senate Bill No. 96

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS IN THE INTEREST OF PUBLIC HEALTH THAT IN-HOSPITAL MEDICAL STAFF COMMITTEES HAVE ACCESS TO INFORMATION RELATING TO TREATMENT OF PATIENTS TO EVALUATE THE CARE AND TREATMENT FOR RESEARCH PURPOSES AND TO REDUCE MORBIDITY OR MORTALITY AND TO OBTAIN STATISTICS; PROVIDING THAT EMPLOYEES OF HOSPITALS MAY FURNISH SUCH INFORMATION TO THE IN-HOSPITAL MEDICAL STAFF COMMITTEES; AND THAT SUCH INFORMATION SHALL BE CONFIDENTIAL AND PRIVILEGED, AND THAT ALL PROCEEDINGS OF SUCH COMMITTEES SHALL BE CONFIDENTIAL AND PRIVILEGED; THAT IN-HOSPITAL STAFF COMMITTEES SHALL PUBLISH INFORMATION ONLY FOR PURPOSES OF EVALUATING MEDICAL CARE AND TREATMENT OR FOR STATISTICAL PURPOSES; THAT COMMITTEES NOR ANY OF MEMBERS OF COMMITTEES SHALL NOT DISCLOSE THE IDENTITY OF ANY PATIENTS WHOSE RECORDS HAVE BEEN STUDIED IN ANY REPORT OR PUBLICATION OF FINDINGS OR CONCLUSIONS OF COMMITTEES, AND THAT THE COMMITTEES AND THEIR EMPLOYEES SHALL PROTECT THE IDENTITY OF PATIENTS WHOSE CONDITIONS ARE STUDIED BY THE COMMITTEES; THAT ALL DATA SHALL BE CONFIDENTIAL AND NOT ADMISSIBLE INTO EVIDENCE IN ANY JUDICIAL PROCEEDING, BUT THAT THE ACT SHALL NOT AFFECT THE ADMISSIBILITY IN EVIDENCE OF RECORDS DEALING WITH A PATIENT'S HOSPITAL CARE AND TREATMENT; DEFINING DATA FOR THE PURPOSES OF THIS ACT; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That Senate Bill No. 96

BE CONCURRED IN

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sufficient insight or capacity to make responsible decisions with respect to his hospitalization.

Information of patients.

(5) The superintendent of the hospital shall inform patients of their right to release as provided in this section.

Costs of commitment.

(6) The costs of commitment proceedings under this section shall be paid by the county of the patient's residence. When the proceedings are completed, the clerk of the district court for the county of Deer Lodge shall send all papers relating to the proceedings to the clerk of the district court of the county of the patient's residence.

Transportation costs.

(7) The costs of transportation to the hospital under this section shall be provided by the patient, his parents, guardian, or the welfare department of the county of the patient's residence.

Repealing clause.

Section 3. Sections 38-406 and 38-410, R.C.M. 1947, are repealed.

Approved: February 24, 1969.

CHAPTER 103

An Act to Amend Section 75-3914, R.C.M. 1947, Relating to the Percentage of Electors Required to Authorize a School District Bond Issue; Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-3914, R.C.M. 1947, is amended to read as follows:

Percentage of electors required to authorize bond issue.

"75-3914. (1224.14) **Percentage of electors required to authorize bond issue.** Whenever the question of issuing bonds for any purpose is submitted to the qualified electors of a school district at either a general or special school election if forty (40) per centum of the qualified electors entitled to vote on such question at such election vote thereon and a majority of such votes shall be cast in favor of such proposition then said proposition shall be deemed to have been approved and adopted; provided, moreover, that if less than forty (40) per centum, but more than thirty (30) per centum of such qualified

electors vote on such question at such election and sixty (60) per centum or more of such votes shall be cast in favor of such proposition, then such proposition shall be deemed to have been approved and adopted, otherwise such question shall be deemed to have been rejected."

Section 2. This act shall be effective upon its passage and approval.

Effective immediately.

Approved: February 24, 1969.

CHAPTER 104

An Act Providing that It Is in the Interest of Public Health that In-Hospital Medical Staff Committees Have Access to Information Relating to Treatment of Patients to Evaluate the Care and Treatment for Research Purposes and to Reduce Morbidity or Mortality and to Obtain Statistics; Providing that Employees of Hospitals May Furnish Such Information to the In-Hospital Medical Staff Committees; and that Such Information Shall Be Confidential and Privileged, and that All Proceedings of Such Committees Shall Be Confidential and Privileged; that In-Hospital Staff Committees Shall Publish Information Only for Purposes of Evaluating Medical Care and Treatment or for Statistical Purposes; that Committees nor Any of Members of Committees Shall Not Disclose the Identity of any Patients Whose Records Have Been Studied in Any Report or Publication of Findings or Conclusions of Committees, and that the Committees and their Employees Shall Protect the Identity of Patients Whose Conditions are Studied by the Committees; that All Data Shall Be Confidential and Not Admissible into Evidence in Any Judicial Proceedings, But that the Act Shall Not Affect the Admissibility in Evidence of Records Dealing with a Patient's Hospital Care and Treatment; Defining Data for the Purposes of this Act; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is in the interest of public health and patient medical care that in-hospital medical staff committees have access to the records, information, and other data relating to the condition and treatment of patients

In-hospital medical staff committees shall have access to information relating to treatment of patients.

in such hospital, to study and evaluate for the purpose of evaluating matters relating to the care and treatment of such patients for research purposes and for the purpose of reducing morbidity or mortality and obtaining statistics and information relating to the prevention and treatment of diseases, illnesses and injuries. To carry out such purposes, any hospital, its agents and employees may provide medical records, information or other data relating to the condition and treatment of any patient in said hospital to any in-hospital medical staff committee. All such records, data and information shall be confidential and privileged to said committee and the members thereof, as though such hospital patients were the patients of the members of such committee. All proceedings and in-hospital records and reports of such medical staff committees shall be confidential and privileged.

Use of information.

Section 2. Such in-hospital medical staff committees shall use or publish information from such material only for the purpose of evaluating matters of medical care, therapy and treatment for research and statistical purposes. Neither such in-hospital medical staff committee nor the members, agents or employees thereof shall disclose the name or identity of any patient whose records have been studied in any report or publication of findings and conclusions of such committee, but such in-hospital medical staff committee, its members, agents, or employees shall protect the identity of any patient whose condition or treatment has been studied and shall not disclose or reveal the name of any such in-hospital patient.

Confidentialness of information.

Section 3. All data shall be confidential and shall not be admissible in evidence in any judicial proceeding, but this section shall not affect the admissibility in evidence of records dealing with the patient's hospital care and treatment.

"Data."

Section 4. As used in this act, data means written reports, notes or records of tissue committees or other medical staff committees in connection with the professional training, supervision or discipline of the medical staff of hospitals.

Effective immediately.

Section 5. This act shall become effective upon its passage and approval.

Approved: February 24, 1969.

CHAPTER 105

An Act Providing that All Authorized Carriers Within the State May Lease Power Equipment for the Purpose of Performing Transportation Movements, Providing Further that the Leasing of Such Power Units Must Be in Writing and Effective Only upon Specific Approval of the Board, Setting Forth the Provisions Required in the Lease, Providing that a Copy of the Lease, Approved by the Board, Be Maintained in Each Leased Vehicle, Providing for Proper Decals on Each Leased Vehicle, Leasing of Power Units by an Authorized Carrier to a Noncertified Carrier Prohibited.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. 8-103.1. **Leasing of power equipment.** All Class A, B and C carriers subject to the jurisdiction of the Board of Railroad Commissioners may lease power equipment for the purpose of performing transportation movements within the state of Montana. The leasing of such power units must be in writing and effective only upon specific approval of the board. Movement of such leased units without prior approval of the board is prohibited.

Leasing of power equipment.

All leases must contain (1) the full names and addresses of negotiating parties, (2) a complete description of each vehicle involved, (3) provision that the sole possession, responsibility, control and direction of each vehicle and its driver resides with the lessee for the entire term of the lease, (4) provision that the lessee assumes full responsibility for all regulatory fees, (5) amount of compensation to be paid for use of the vehicle while under the lease and the method by which such compensation is determined, (6) the renewal conditions of the lease, if any, and (7) the term length of the lease.

Leases to contain.

A copy of the lease, certified by the Board, must be maintained in each leased vehicle at all times.

Each power unit so leased must display in a conspicuous place on both sides of such vehicle the identity and address of the lessor, and lessee, and the certificate number under which the power unit is operating. The leasing of power units by an authorized carrier to a noncertificated carrier is prohibited.

Markings or power unit.

Approved: February 24, 1969.